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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,787	09/04/2001	Dietmar Huglin	HP/2-21867	3542

324 7590 12/18/2006  
CIBA SPECIALTY CHEMICALS CORPORATION  
PATENT DEPARTMENT  
540 WHITE PLAINS RD  
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TARRYTOWN, NY 10591-9005

EXAMINER	
CHANNAVAJJALA, LAKSHMI SARADA	
ART UNIT	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/830,787	HUGLIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lakshmi S. Channavajjala	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 September 2006.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 33,35,36,42,43,47-49,54-61,63 and 64 is/are pending in the application.
- 4a) Of the above claim(s) 42 and 43 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 33,35,36,47-49,54-61,63 and 64 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

### **DETAILED ACTION**

Receipt of remarks dated 9-18-06 is acknowledged.

Claims 37 and 62 are canceled. Claims 33, 35-36, 42-43, 47-49, 54-61 and 63-64 are pending in the instant application. Claims 42 and 43 have been withdrawn.

#### ***Response to Arguments***

In response to applicants arguments on pages 11-13 of the response and the Declaration filed By Dietmar Hueglin filed on 9-15-06, was found to be persuasive, and accordingly the rejection of claims under 35 USC 103(a) as being unpatentable over GB 2319523 has been withdrawn. A new rejection has been applied as follows:

#### **Claim Rejections - 35 USC § 102**

Claims 33, 35-36, 42-43, 47-49, 54-61 and 63-64 are rejected under 35 U.S.C. 102(e) as being anticipated any one of US 6,117,997 ('997) or US 6,284,821 ('821) or US 6,184,375 ('375).

The applied references 6,184,375 and 6,284,821 have a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the references, they constitute prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of

the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Each of the above patents cites describe triazine compounds having the same formula I, for stabilizing a number of organic materials against the damaging effect of light, oxygen and heat. The compound of Formula I in each of the above patents has the same structure and also read on the instant phenolic antioxidants, where in the R3 is radical 1g. Thus, the formula I of the above patents constitutes a species of the instant claimed genus of compounds and thus anticipates instant claims. See col.1 (entire), col. 7 of US '997 for the description of the phenolic compound and see col. 11-24 for the various types of polymers or organic materials that the can be stabilized and the various compositions. In US '375, see entire col.1 and cols.13-28; and US '821, see col.1 and 13-36. The compositions stabilized by the phenolic compounds in the above patents include of the claimed household, body treating compositions and other personal care compositions that are listed in the instant claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lakshmi S Channavajjala  
Examiner  
Art Unit 1615

December 10, 2006



LAKSHMI S. CHANNAVAJJALA  
PRIMARY EXAMINER